

REMARKS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action provided, for the indication that the drawings filed on October 10, 2001 are acceptable, for the acknowledgment of Applicants' Information Disclosure Statement by return of the Form PTO-1449, and for the acknowledgment of Applicants' Claim for Priority and receipt of the certified copy of the priority document in the Official Action.

Applicants acknowledge with appreciation the indication that claims 1 and 3-11 contain allowable subject matter, on page 4 of the Official Action.

Claims 1 and 3-15 are currently pending. Applicants respectfully request reconsideration of the outstanding rejections, and allowance of all the claims pending in the present application.

On pages 2-4 of the Official Action, claims 12-15 were rejected under 35 U.S.C. § 102(e) as being anticipated by KIMURA et al. (U.S. Patent Application No. 2002/0012313 A1).

Applicants respectfully traverse the rejection of claims 12-15 under 35 U.S.C. § 102(e).

Initially, Applicants note that the KIMURA et al. reference is not a proper reference to be applied against the claims of the present application under 35 U.S.C. §

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102(e). In this regard, Applicants note that the present application claims priority, under 35 U.S.C. § 119, of Japanese Application No. 2000-312110 filed on October 12, 2000.

(Applicants are submitting a Verified English Language Translation of Japanese Application No. 2000-312110 herewith to perfect their priority claim). In contrast, KIMURA et al. is entitled to a U.S. filing date (i.e., 102(e) date) of May 2, 2001.

Accordingly, because of Applicants' earlier foreign filing date, it is respectfully submitted that KIMURA et al. does not provide an appropriate basis for a rejection under 35 U.S.C. § 102(e). For at least this reason, it is respectfully submitted that the Examiner's rejection is improper and should be withdrawn.

Independently of the above-noted inapplicability of the cited reference based on its date, the disclosure of the cited reference is also inadequate to render any of the pending claims unpatentable. In this regard, Applicants note that claim 12 recites, inter alia, "said diffraction lens structure being configured to compensate for variation of a converging characteristic of said objective lens due to a change of a temperature". In contrast, the diffractive surface of the objective lens 3 of KIMURA et al. compensates for chromatic aberration, as discussed in Paragraphs [0462]. It appears that the change of spherical aberration due to change of temperature is instead compensated for in the system of KIMURA et al. by the positive lens 4 and negative lens 5.

Applicants also submit that dependent claims 13-15, which are at least patentable due to their dependencies from claim 12, for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record.

Applicants respectfully submit that the rejection of claims 12-15 under 35 U.S.C. § 102(e) is improper at least for each and certainly for all of the above-noted reasons. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection, and an early indication of the allowance of these claims.

COMMENTS ON REASONS FOR ALLOWANCE

In regard to the Examiner's indication of allowable subject matter in claims 1 and 3-11 on pages 4 and 5 of the Official Action, Applicants do not disagree with the Examiner's indication that KIMURA does not disclose that the area of the peripheral area is not greater than the area of the central area. However, Applicants wish to make clear that the claims in the present application recite a combination of features, and that the patentability of these claims is also based on the totality of the features recited therein, which define over the prior art. Thus the reasons for allowance should not be limited to those mentioned by the Examiner.

SUMMARY AND CONCLUSION


In view of the foregoing, it is submitted that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in claims 1 and 3-15.

Accordingly, reconsideration of the outstanding Official Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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